

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application Of:) CERTIFICATE OF MAILING *H3*
JILENE A. REPP ET AL)
Serial No.: 09/900,927) I hereby certify that this correspondence is being
Filed: July 9, 2001) deposited with the United States Postal Service as
Group Art Unit: 1733) first class mail in an envelope addressed to:
Examiner:) COMMISSIONER FOR PATENTS,
QUILTING METHOD AND) Washington, D.C. 20231, this 26th day of
SYSTEM) November, 2001.
Barbara A. Johnson 11-26-01
Barbara A. Johnson Date

PETITION TO ADVANCE EXAMINATION

COMMISSIONER FOR PATENTS
Washington, D.C. 20231

Sir:

APPLICANT respectfully requests accelerated special examination of the above entitled application under Section 371.0102(d) and the required fee of \$130.00 is submitted herewith.

The above application is assigned to June Tailor, Inc., 2861 Highway 175, Richfield, Wisconsin 53076, and is a divisional application of Serial No. 09/521,810, now U.S. Patent No. 6,261,397, issued July 17, 2001. The parent application was processed with accelerated special examination.

APPLICANT, as recited herein, includes the named inventors and the assignee of the application.

Basis for Request

This request is made based on an existing infringement of one or more of the claims of the subject application by The Stearns Technical Textile Company of 100 Williams Street, Cincinnati, Ohio 05215-4683 and is based on the products of said

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company as shown in the attached Exhibits 1 and 2. The infringement is fully discussed hereinafter.

Applicant made a careful and thorough search of the prior art in connection with the filing and prosecution of the parent application.

The searches covered art relating to the use of an adhesive to interconnect a quilt batting to the covers to avoid the tedious task of stitching the covers to the quilt batting.

A careful and thorough search of the prior art has been made of the issued patents in the U.S. Patent and Trademark Office, as well as of literature and foreign patent art by Nerac. Such searching was conducted by or on behalf of the firm of Andrus, Sceales, Starke & Sawall of Milwaukee, Wisconsin, with instructions to locate prior art which might be considered pertinent to the subject matter of quilt batting as set forth in the above entitled application.

The practice of the above firm is solely directed to intellectual property and related matters, and has actively prepared and prosecuted patent applications, including novelty searches as well as searches in connection with other aspects of patents, such as sale and license of patents and patent litigation.

An updated search has been conducted to locate any other additional art to support this request for accelerated prosecution.

Eugene R. Sawall, submits herewith a Declaration attesting to the updated search of the Patent and Trademark Office files

The prior complete and thorough searches with the update thereof, were specifically made to locate any prior art, both analogous and non-analogous, which might be considered in reviewing the claims of this Application.

Subject Matter of the Above-Entitled Application

This divisional application is particularly directed to quilt batting constructed to improve and simplify the creating of a quilt, particularly by individual quilters. The invention may also be applied with respect to mass production of quilts. The application covers a quilt batting with the appropriate adhesive applied for making a quilt cover for

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bedding or like application, and in a state for assembly with the covers without the conventional temporary stitching of the three layers.

Historically in the forming of a quilt, a soft and relatively thick inner soft layer, generally known as batting, previously of cotton and more currently of cotton or polyester-cotton combinations, is enclosed within an outer cloth cover. The cover will normally consist of a top fabric member and a bottom or backing fabric member which are secured about the periphery to totally enclose the batting. Both of the cover members may be formed of the same, or different, cloth material. Under prior practice, the covers are attached to the batting manually by basting. This involves manually stitching of the covers to the opposite sides of the batting with relatively long stitches passing through all three elements. This requires the manual threading of a fine thread through the three layers of the covered batting and along the surface of the layers at spaced locations to locate and temporarily attach the covers to the batting. The quilter then manually attaches the covers through various attachment elements (e.g. connectors) passing through all layers including the covers to form various surfaces and to completely secure the covers along the edges to totally enclose the batting to complete the quilt. The final attachment of covers is usually through spaced locations to form a quilt.

After the formation of the final connections, the temporary stitching made prior to forming the quilt pattern and final connection, is manually removed.

The special batting of the above application is a special adhesive coated batting which eliminates the temporary stitching, and thus avoids the tedious time consuming task not only of providing the initial stitching, but the subsequent removal of such temporary stitching from the final quilt.

The quilt batting of this application particularly eliminates the temporary stitching by providing a batting with an adhesive facing and preferably a thin and activatable adhesive applied to the opposite faces of the batting. The adhesive initially does not sufficiently adhere to the covers to prevent or interfere with proper positioning of the batting between the covers. The quilter purchases a batting with the adhesive, and this divisional application is directed to that product.

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The adhesive covered batting may be directly and conveniently assembled with top and back covers, as follows.

The batting is supported on a suitable support structure such as a table or other flat physical support. A first cover is placed over the batting and moved into an appropriate relationship to cover the batting as a part of the final quilt. Thus, the cover must be placed with all edges properly arranged on the cover. This will generally require positioning of the cover relative to the batting during assembly to properly orientate the batting and the cover. The cover is then heated, preferably through the simple use of a hot iron conventionally used for home ironing of clothing and other fabrics to activate the adhesive and provide at least a temporary adherence therebetween to hold the batting in proper location on the cover. After adherence of the first cover member, the batting and the attached cover is reversedly placed on the support and the second cover is properly arranged on the batting. When properly oriented on the batting, the second cover is ironed and thereby correspondingly activates the adhesive to adhere the second cover to the interposed batting.

Other forms of adhesive to permit proper positioning of the cover over the batting and to initially form a non-interfering attachment may be used. For example, a light attachment which permits arranging the covers for proper attachment may be used. The adhesive must, when activated, at least temporarily maintain the adherence of the covers to the batting and permit the quilter to directly proceed without concern as to shifting of the covers relative to the batting during the forming of a desired design by machine stitching, manual tufting of the quilt subassembly (or through other suitable connectors). Such product allows the appropriate closing of the cover edges to totally enclose the batting and produce a finished quilt.

The adhesive may be such as to remain present in the final quilt (see pages 3, lines 18-22 of the application). The activated attachment is at least as long as necessary to permit the quilters to finish the quilt, by sewing or tufting (or through use of other connectors) the covers to each other and the batting. The adhesive may or may not then be removed.

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In a preferred construction, the adhesive is of a variety which will dissolve in water and dissipate in a simple washing of the final quilt. The final result is a finished quilt identical to that heretofore produced, but without the tedious initial temporary stitching and subsequent removal of such stitching, to produce the finished quilt.

The claims of the above entitled application include claims 15-23 which are directed to adhesive covered batting to form the quilt which is then directly assembled with outer covers as a first step in forming the quilt.

Independent claims 15 and 21 each define a quilt batting member as a separate element consisting of the finished batting with an adhesive on the opposed surfaces for sale particularly to individual quilters. Applicant's claims define the new and unique batting having an adhesive which acquires activation to at least connect the covers to batting and avoids the necessity of manual stitching and subsequent removal of such temporary stitching. This permits an improved and more rapid method of preparing the quilt without the tedious and time consuming stitching step of the prior art.

Stearns' Batting

Applicant submits herewith two outer packages for batting of Stearns Technical Textile Company, with the roll of batting removed, except for a small sample thereof removed from the respective rolls of battings consisting of:

1. Exhibit 1: Instructions for use of "Gold-Fuse" Fusible Batting;
2. Exhibit 2: Instructions for use of "White Gold" Fusible Cotton Batting.

Exhibit 1 is taken from a Stearns Packaging for a roll of Gold-Fuse Cotton Polyester Batting with fusible adhesive on the opposite faces. The instructions clearly discloses use of a steam iron to activate the adhesive and form the bond for attaching the covers to each other and the batting during the tufting or sewing to form a finished quilt.

Applicants' do not know of Stearns' batting which was identified as "fusible" other than battings sold for quilting after applicants' fusible batting was advertised and "sold".

Exhibit 2 is a similar package for Stearns White Gold Iron-Baste 100% Cotton batting for quilting, with instructions for activating the adhesive to secure the batting to the covers by use of a steam iron.

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The White Gold instructions note that the fusible batting may be placed directly on the ironing board and a top cover fused to the exposed batting. However, "The fusible surface of the batting does not permanently 'stick' to the iron or ironing board," is noted.

The instructions on the back of the package Exhibits include all of the steps first taught in this art by the present applicant and as set forth in the Application.

In one system, the batting with an adhesive on the opposed surfaces is cut to a desired size. The back cover is laid with one side down and the batting laid thereon. The quilt top cover is placed over the batting in an appropriate arranged and exposed position with the outer side exposed. A steam iron is then used to press from the center of the quilt outwardly, lifting the iron to move it and being sure to press the entire surface. The one-sided covered batting is then turned over and similarly assembled and connected. The process then proceeds with a prior known method of quilting.

The literature specifically notes that you may machine quilt or hand quilt and that it can be laundered, also as taught in the present application.

Thus, in both Exhibits 1 and 2 the adhesive is not active to hold the batting to the cover but requires a steam iron to press the outer quilt cover to the adhesive coated batting for holding the batting in place, without the conventional stitching, during the hand or machine finishing of the quilt. This is the very substance of the present invention.

In both Exhibits, prior to ironing, the cover can be moved relative to the batting, as the adhesive is not sufficiently activated to limit the same. As noted in both instances, the bond is "...stronger after the ironed layers cool" as set forth to backside of the package as shown by highlighted portions by the undersigned Eugene R. Sawall, and would then be in condition for final quilting by hand or machine for permanently connecting of the covers.

In both instances, the adhesive functions in accordance with the teaching of the invention disclosed and claimed in the above entitled application; i.e., the adhesive is activated to eliminate the usual tedious temporary stitching.

In connection with the "White Gold" Product (Exh. 2), Stearns states the batting can be placed on the iron board, and an outer cover applied and attached by ironing

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with the steam iron, because "the fusible surface of the batting does not permanently 'stick' to the ironing board", see back instructions. (Highlighting by the undersigned Eugene R. Sawall).

In summary, Stearns uses an adhesive which may remain a part of the final quilt, at least in the White Gold Product. During the making of the quilt, the adhesive is activated by the ironing and cooling to establish at least a temporary bond, which permits the personal finishing of the quilt by the quilter by permanently attaching the covers to each other and to the batting; either by machine sewing or manually for forming of spaced connections of thread, yarn or other suitable connectors, which is extended through the quilt cover and the batting at spaced locations to complete the quilt.

The instructions on the Stearns Exhibit 2 particularly states the cover is not permanently bonded to the cover, and one can assume the same is true of the early Exhibit 1 if the adhesive is not removed from the final quilt.

The Infringement

Claims 15-23 define the batting with the adhesive which requires activation to establish a connection permitting the finishing step.

It is submitted that the Stearns sale of its special battings with the adhesive on the opposed surfaces is an infringement of one or more pending claims.

Independent claim 15 is directed to the quilt batting "member" constructed for location between top and bottom cloth covers of a quilt and configured for receiving the permanent and final connecting means through the covers and the batting member. The batting member is defined as a soft, thick material with the adhesive improvement on the batting. The claim recites an inactive adhesive on the opposed faces of said batting member for proper location of the batting abutting the covers. This requires the batting be movable relative to the covers prior to adhesive activation. After properly locating the batting relative to one or more covers, the adhesive is activated to attach the batting member to the cover(s) in such manner that the assembly can be finished by usual hand or machine finishing.

This defines the unique quilt batting of Exhibit 1 and 2 which is sold as a separate product in the quilting trade for use by quilters by Stearns. At least with the "White

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"Gold" product, the adhesive remains a part of the final product, but does not provide a permanent bond.

Independent claim 21 defines the adhesive to permit the placement of the batting between the covers, and particularly allows movement therebetween in order to properly orientate the batting. The desired assembly is then processed to activate the adhesive, and secure the covers in place for final interconnection of the covers to each other and to the batting by suitable connectors, such as spaced tufts and/or by sewing through the two covers and batting to finish the quilt. The adhesive, as defined in dependent claim 22, may remain as part of the finished quilt.

The adhesive must hold the assembly together for at least the temporary period for completing the connection (e.g. tufting and/or sewing) to the state where the proper orientation of batting and the covers are in the final fixed position. The adhesive, depending upon the adhesive selected, may remain as part of the finished quilt, or removed, if so desired.

Thus, the critical and unique feature of this new quilt batting is an adhesive coating which totally eliminates the necessity for the standard stitching as present in all prior art quilt batting for over a hundred years, while producing a final quilt with the spaced securing of the covers to each other and to the batting a connector, such as tufts, pattern sewing, or other suitable connecting means.

The claims as presented are believed to be clearly infringed and patentable over all of the prior art known to APPLICANTS.

Newly Located Art

The disclosures located as a result of original searches (see references in U.S. 6,261,397) and the updated new search do not remotely suggest the use of an adhesive to connect the battings to the quilt covers and permit finishing of the quilt without the historical tedious and time consuming stitching and subsequent removal thereof. The additional patents disclose interlining and cloth member attachments for forming of wearing apparel.

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U.S. Patent 1,856,556 issued May 3, 1932 discloses a "Method of Embroidering" wherein pattern pieces 4 are connected by an adhesive to the cloth. The pieces 4 are dissolved by water after finishing the embroidering.

U.S. Patent 4,333,982 which issued June 8, 1982 discloses an apparel or garment and is, as best, similar to the U.S. Patent 3,333,380 (issued August 1, 1967) encountered in the prosecution of the parent application, now U.S. Patent 6,261,397. This patent disclosed a separate collar interliner adhesively inserted and then sewn in place.

More particularly, the '982 patent discloses a separate fusible interlining for a washable garment. The patent particular disclose "...a novel heat-sealable film which can be used as a fusible interlining..." (column 2, lines 36-41). The film can be formed without a base material and inserted between two layers of outer fabric. (Columns 2-3, lines 67-2). The product is usable as a stiffener strip for shirt collars. (Column 3, lines 41-42).

U.S. Patent 4,613,538 which issued September 23, 1986 discloses adhesive bonding of interlining to an outer fabric using adhesive dots on one of the two elements to form a permanent bonded connection with a padded or quilted appearance. The patent appears directed to forming a garment material, as various other patents in the garment industry.

U.S. Patent 5,546,877 which issued August 20, 1996 discloses securing a fabric within a special support structure to sew and embroider or otherwise apply an image to the fabric by a needle and thread. (Column 2, lines 36-41). Fig. 5a-5c disclose a method of supporting a series of elements to each other and fabric 4 with adhesives.

U.S. Patent 6,051,090 which issued April 18, 2000 similarly discloses interconnecting sewable materials to make "various apparel items" (Column 1, line 2) and is particularly directed to a part of a stitching unit 28 having a movable support 18 which dictates the stitching pattern on a sewable material 14. Support 18 has an opening 32, which is attached to the stitching apparatus 20. A sewable material 14 is secured to a sheet material 12 by an adhesive. The sheet material 12 is in turn secured to the support 18 overlying the opening 18. A stitching head 20 stitches through the material 12 and 14 aligned with the opening 18. (Column 4, lines 23-43).

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The '090 patent thus provides a system for machine stitching of a fabric to a base with an adhesive support to form a cloth member which may be used to form wearing apparel, such as caps, shirts or the like. (Column 1, lines 27-28).

Conclusion.

Based on the results of the original and the additional search and the above analysis of the newly located art, it is respectfully submitted that Applicant is entitled to the broad patent protection on the quilt batting with the adhesive which must be activated for establishing a connection of the outer covers to the batting to avoid the tedious stitching, which has provided a significant improvement in the art of quilting. Coverage for the unique quilt batting for preparing of quilts is essential to allow June Tailor, Inc., to properly protect the novel base for the improved forming of quilts particularly by individual quilters.

The description as set forth in the products of Stearns clearly includes a batting with an adhesive on the opposed faces which is heated and pressure applied to thereby activate the adhesive for the subsequent assembly and final manual or machine attachment of the batting to the two covers, to avoid the prior art tedious stitching and subsequent removal, which is clearly based on the teaching of the present applicants.

The acceleration of this application is requested to allow litigation of the method patent and the unique product. The infringer having denied direct infringement. Simultaneous processing of both subjects is desired.

Respectfully submitted,

ANDRUS, SCEALES, STARKE & SAWALL, LLP

By

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HOW TO USE GOLD-FUSE

PLEASE READ ALL INFORMATION PRIOR TO USE!

This fusible, iron-on batting is intended to eliminate time consuming methods of basting a quilt together. It is 50% cotton 50% polyester non-woven fiber with a fusible bonded surface finish on both sides. GOLD-FUSE provides a light fuse that is repositionable after ironing. Please unfold and handle GOLD-FUSE carefully to insure optimum results. For best fusing results, use pre-washed 100% cotton fabrics for your quilt top and backing.

You will need to use a steam iron, ideally with a "shot of steam" feature. Set your iron on a wool setting. When pressing, lift the iron to move to the next section to prevent the layers from shifting. If you end up with a wrinkle, gently pull the fabric off of the batting and reposition and press again. The bond will be stronger after the layers cool. Avoid touching the surface of the iron directly to the surface of GOLD-FUSE.

INSTRUCTIONS FOR USING GOLD-FUSE

1. Separately press fabric layers, quilt top and backing, before "fuse basting".
2. Carefully unroll and unfold batting to single layer.
3. Cut batting to desired size, while in a single layer.
4. Lay backing with right side down. Place batting to wrong side of backing. Place quilt top to batting with right side up.
5. With a steam iron set to wool setting, begin pressing in the center of the quilt. Gradually press toward sides and ends of quilt top, lifting iron to move. Make sure you press the entire surface. See NOTE below for large projects.
6. Turn the quilt over and repeat step 5.
7. Proceed with desired method of quilting. You may machine quilt or hand quilt up to 3 inches apart.

Note: For a large quilt, you can iron the quilt top only to the batting first. You may line up the side and top of the quilt with the batting. Roll the quilt and press "section by section", moving to the next section while still warm so the bottom layer can be moved on the ironing board. Then turn over and position the backing and press.

LAUNDERING A FINISHED QUILT WITH GOLD-FUSE

A well constructed quilt can be gently laundered by machine. Use cool water and a gentle or "soak" cycle. The quilt may be dried in a dryer on a low heat setting or lay flat to dry.

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Instructions for Using White Gold

This iron-baste batting is non-woven fiber with a fusible surface on both sides and is repositionable after ironing. Please unfold and handle carefully to insure optimum results. For best fusing results, use pre-washed 100% cotton fabrics for your quilt top and backing.

Press quilt top and backing before "iron-basting". Carefully unroll and unfold batting to single layer and cut to desired size. You may layer the batting with both quilt top and backing, or fuse one layer at a time. The fusible surface of the batting does not permanently "stick" to the iron or ironing board. Use a steam iron, ideally with a "shot of steam" feature set on a wool setting. Press the entire

- ⑥ surface of both sides of the project. If necessary, gently pull the fabric off the batting and reposition and press again. The bond will be stronger after the layers cool. The quilt is ready to be quilted by hand or machine up to 2" apart all over.

A well constructed quilt can be gently laundered by machine. Use cool water and a gentle or "soak" cycle. The quilt may be dried in a dryer on a low heat setting or lay flat to dry.

If you have any questions about
Mountain Mist, call me please!

Phoebe Edwards
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